

Board of County Commissioners

Agenda Request

Date of Meeting: January 27, 2004

Date Submitted: January 21, 2004

To: Honorable Chairman and Members of the Board

From: Herbert W.A. Thiele, Esq.
County Attorney

Subject: Appointments to the Enterprise Development Zone Agency Board

Statement of Issue:

Whether to amend County Ordinance #2002-10 to include specific language which would permit the Chairman's term for the Enterprise Development Zone Agency Board ("EDZA") to run concurrently with the Leon County Board of County Commissioners' ("BCC") Chairman's term.

Background:

At the request of Chairman Sauls, the County Attorney's office recently submitted a memorandum discussing the appointments to the EDZA Board. Specifically, the issue was whether or not the current Chairman's term of the EDZA Board runs concurrently with the BCC chairman's term. Recent precedent provides for the BCC chairman's term to run concurrently with the EDZA chairman's term. To maintain consistency, our office recommended that Commissioner Sauls may, in accordance with the County's ordinance, appoint herself or her designee to serve as Chairperson of the EDZA. The County Attorney's office further recommended that the current EDZA chairman, Doug Bailey, would assume vice-chairmanship of the EDZA board. However, during the December 9, 2003, regularly-scheduled BCC meeting, Commissioner Grippa requested further clarification regarding the term limits for EDZA chairman and vice-chairman appointees. Commissioner Grippa inquired specifically as to whether the EDZA Chairman and Vice-chairman appointees are required to serve 1 year or 4 year terms.

Analysis:

The Florida Legislature provides direction as to the appointment and terms of members to the EDZA Board. Section 290.0056 (2), Florida Statutes, provides, in pertinent part:

(2) When the governing body creates an enterprise zone development agency, that body shall, by ordinance, appoint a board of commissioners of the agency, which shall consist of not fewer than 8 or more than 13 commissioners. The governing body must appoint at least one representative from each of the following: the local chamber of commerce; local financial or insurance entities; the businesses operating within the nominated area; the residents residing within the nominated area; nonprofit community-based organizations operating within the nominated area; the local private industry council; the local code enforcement agency; and the local law enforcement agency. The terms of office of the commissioners shall be for 4 years, except that, in making the initial appointments, the governing body shall appoint two members for terms of 3 years, two members for terms of 2 years, and one member for a term of 1 year; the remaining initial members shall serve for terms of 4 years. A vacancy occurring during a term shall be filled for the unexpired term. The importance of minority representation on the agency shall be considered in making appointments so that the agency generally reflects the gender and ethnic composition of the community as a whole.

(5) The governing body shall designate a chair and vice chair from among the commissioners...

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Consistent with state law, the BCC adopted County Ordinance #2002-10 (Attachment #1). Beneath the heading entitled "Additional Representatives," section 2-92(b) of County Ordinance #2002-10 provides for the initial appointment of the of EDZA board's Chairman and Vice-chairman to be named consistent with the BCC Chairman and Vice-Chairman or their designees. The EDZA Chairman or designee serves an initial 3-year term and the Vice-Chair or designee serves an *initial* 2- year term. The BCC also passed Resolution #02-56 on July 30, 2002, which specifically named the BCC's appointments and duration of term as required by the ordinance and Florida law (Attachment #2). According to the Resolution, County Commissioner Dan Winchester was appointed as Chairman to the EDZA board with an initial 3-year term. County Commissioner Tony Grippa was appointed as Vice-Chairman to the EDZA board with an initial 2-year term. At the time of their Chairman and Vice-Chairman appointments to the EDZA board, Commissioners Dan Winchester and Tony Grippa were also serving, concurrently, as Chairman and Vice-chairman of the BCC.

While the overall term of each member is 4 years, state law requires that certain initial appointments serve for 3 years. Specifically, at least two members serve 3 years, two members serve for terms of 2 years, and one member for a term of 1 year. The County ordinance adopted this language providing that the BCC Chairperson or designee serve an initial 3 year term, the BCC Vice-Chairperson or designee serve an initial 2 year term, the Tallahassee Mayor or designee to serve an initial 2 year term, a local law enforcement agency representative would serve an initial 3 year term and a local Code Enforcement Agency representative to serve an initial 1 year term. Although the County Ordinance clearly applies the required statutory language, for each EDZA appointee, it does not appear that the BCC has followed the minimum term appointments.

According to Resolution #02-56, Commissioner Dan Winchester was appointed as Chairman of the EDZA with a 3-year term and Commissioner Tony Grippa was appointed as Vice-Chair to the EDZA with a 2-year term. Conceivably, Commissioner Winchester's 3-year appointment to the EDZA expires in the year 2005 and Commissioner Grippa's 2-year appointment would expire in the year 2004. However, according to the committee details of the EDZA's web site, Doug Bailey was appointed as the EDZA Chairman's designee on July 22, 2003, with a term ending July 30, 2004 (Attachment 3). Therefore, it appears that Commissioner Winchester's appointment as Chairman of the EDZA ended concurrently with his term as Chairman of the BCC effective November 2002, and he subsequently assumed the Vice-Chairman's role on the EDZA. After Commissioner Winchester's term as Chairman of the BCC ended, Tony Grippa assumed the BCC chairmanship, but it appears that, in midstream, he appointed a designee to concurrently fill his chairmanship to the EDZA board. That appointment was Doug Bailey. Since Commissioner Grippa's term on the EDZA board ends in the year 2004, his designee, Doug Bailey, must serve the remainder of Commissioner Grippa's 2-year term as a member of the EDZA board until July, 2004. There is no record of the Board acting upon the subsequent appointments relating to Doug Bailey and Commissioners Winchester and Grippa.

Since the County's ordinance clearly provides that the BCC Chairperson or designee shall serve as chairman of the EDZA, then it is appropriate that the Chairman appointments of the EDZA and of the BCC shall run concurrently with the election of the BCC chairman. Therefore, since Jane Sauls has been elected chairman of the BCC effective November 2003, pursuant to the County's Ordinance, either Commissioner Sauls or her designee is permitted to serve as Chairman of the EDZA. The current Chairman of the EDZA, Doug Bailey, will assume vice-chairmanship of the EDZA.

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Mr. Bailey's term ends on July, 2004. As for Commissioner Winchester, his 3-year term ends in July 2005, and therefore, must remain on the EDZA board until that time.

The County's Ordinance does not speak to the "concurrency" issue. State law is also silent on the matter. Therefore, the County Attorney's office would recommend adding new language to the county ordinance and the EDZA's bylaws which provides for the chairmanship of the EDZA board to run concurrently with the BCC chairmanship. The recommended language does not circumvent the required statutory and ordinance term requirements. In fact, as long as the named members serve the entirety of their appointed term limit, the BCC is free to choose a Chairman and Vice-chairman from among any EDZA board members. As a member of the EDZA board, Commissioner Sauls or her designee must remain on the board for a 4-year term even after her reign as chairman of the BCC and the EDZA board has expired.

Options:

1. Amend County Ordinance #2002-10 to add language providing for concurrency chairmanship of the Board of County Commissioners and the Enterprise Development Zone Agency Board which requires a public hearing and advertisement of it.
2. Do not amend County Ordinance #2002-10.
3. Board direction.

Recommendation:

Option #1.

Attachments

1. County Ordinance #2002-10
2. Resolution #02-56
3. EDZA's website committee details

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